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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,223	06/20/2003	Sudhindra P. Herle	2003.07.011.WT0	9788

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Docket Clerk
P.O. Drawer 800889
Dallas, TX 75380

EXAMINER
RAMPURIA, SATISH

ART UNIT	PAPER NUMBER
2191	

DATE MAILED: 11/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<table>
<tr><td rowspan="2">Office Action Summary</td><td>Application No.
10/600,223</td><td>Applicant(s)
HERLE, SUDHINDRA P.</td></tr>
<tr><td>Examiner
Satish S. Rampuria</td><td>Art Unit
2191</td><td></td></tr>
</table>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>20 June 2003</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-24</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) <u>1-24</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>21 January 2004</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   This action is in response to the application filed on June 20, 2003.

2.   Claims 1-24 are pending.

Oath/Declaration

3.   The Office acknowledges receipt of a properly signed oath/declaration filed June

20, 2003.

Specification

4.   The abstract of the disclosure is objected to because: the word "COU" should be

CPU on line 16.

Drawings

5.   The drawings were received on January 21, 2004. These drawings are acceptable by

the examiner.

Claim Rejections - 35 USC § 102

6.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --
 (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the
United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by
another filed in the United States before the invention by the applicant for patent, except that an international
application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an
application filed in the United States only if the international application designated the United States and was
published under Article 21(2) of such treaty in the English language.

7.   Claims 1-24 are rejected under 35 U.S.C. 102(e) as being anticipated by US

Publication No. 2004/0068721 to O'Neill et al. (hereinafter, O'Neill).

Per claim 1:

O'Neill discloses:

- A wireless communication device capable of accessing a wireless network and downloading a software upgrade file therefrom (paragraph [0011] "provide software updates to one or more wireless communication devices"), said wireless communication device comprising:

- a first central processing unit (CPU) capable of controlling wireless communications with said wireless network (paragraph [0014] "...distribution environment provides a suitable distribution node... communication device");

- a first memory associated with said first CPU (paragraph [0032] "...non-volatile memory... and a volatile memory" Also See Fig. 2 and related discussion);

- a second central processing unit (CPU) capable of executing at least one end-user application on said wireless communication device (paragraph [0011] "...software updates are generated by executing the software processing package...resident...device to be updated"); and

- a second memory associated with said second CPU (paragraph [0032] "...non-volatile memory... and a volatile memory" Also See Fig. 2 and related discussion), wherein said first CPU downloads said software upgrade file from said wireless network and stores said downloaded software upgrade file in said second memory (paragraph [0032] "download agent....download...software from distribution... upload agent... uploads software... in the wireless communication device...in the non-volatile memory...software update...").

Per claim 2:

The rejection of claim 1 is incorporated and further, O'Neill discloses:

- wherein said first CPU is capable of executing a first upgrade agent program that replaces first existing code associated with a first existing software file in said first memory with first replacement code from said downloaded software upgrade file (paragraph [0032] "download agent...download...software from distribution... upload agent... uploads software... in the wireless communication device...in the non-volatile memory...software update...").

Per claim 3:

The rejection of claim 2 is incorporated and further, O'Neill discloses:

- wherein said first upgrade agent program is stored in said first memory ((paragraph [0032] "download agent...download...software from distribution... upload agent... uploads software... in the wireless communication device...in the non-volatile memory...software update..." Also See Fig. 2, element 221 and related discussion).

Per claim 4:

The rejection of claim 3 is incorporated and further, O'Neill discloses:

- wherein said downloaded software upgrade file is transferred from said second memory to said first memory by an interprocessor communication unit (paragraph [0032] "download agent...download...software from distribution... upload agent... uploads

software... in the wireless communication device...in the non-volatile

memory...software update..." Also See Fig. 2, element 223).

Per claim 5:

The rejection of claim 4 is incorporated and further, O'Neill discloses:

- wherein said first CPU executes said first upgrade agent program after said downloaded

  software upgrade file is transferred into said first memory from said second memory

  (paragraph [0032] "download agent...download...software from distribution... upload

  agent... uploads software... in the wireless communication device...in the non-volatile

  memory...software update...").

Per claim 6:

The rejection of claim 3 is incorporated and further, O'Neill discloses:

- wherein said first upgrade agent program is transferred from said second memory and

  stored in said first memory (paragraph [0032] "download agent...download...software

  from distribution... upload agent... uploads software... in the wireless communication

  device...in the non-volatile memory...software update..." Also See Fig. 2, element 223).

Per claim 7:

The rejection of claim 6 is incorporated and further, O'Neill discloses:

- wherein said downloaded software upgrade file and said first upgrade agent program are

  transferred from said second memory to said first memory by an interprocessor

communication unit (paragraph [0032] "download agent...download...software from
distribution... upload agent... uploads software... in the wireless communication
device...in the non-volatile memory...software update..." Also See Fig. 2, element 223).

Per claim 8:

The rejection of claim 7 is incorporated and further, O'Neill discloses:

- wherein said first CPU executes said first upgrade agent program after said downloaded
  software upgrade file is transferred into said first memory from said second memory
  (paragraph [0037] "software updates may be downloaded and easily executed using one
  or more update, download, and upload agents of the primary update environment in
  conjunction with one or more software applications, components, and/or firmware
  resident in memory of the wireless communication device").

Per claim 9:

The rejection of claim 2 is incorporated and further, O'Neill discloses:

- wherein said second CPU is capable of executing a second upgrade agent program that
  replaces second existing code associated with a second existing software file in said
  second memory with second replacement code from said downloaded software upgrade
  file (paragraph [0037] "software updates may be downloaded and easily executed using
  one or more update, download, and upload agents of the primary update environment in
  conjunction with one or more software applications, components, and/or firmware
  resident in memory of the wireless communication device").

Per claim 10:

The rejection of claim 9 is incorporated and further, O'Neill discloses:

- wherein said second upgrade agent program is stored in said second memory (paragraph

    [0032] "download agent...download...software from distribution... upload agent...

    uploads software... in the wireless communication device...in the non-volatile

    memory...software update..." Also See Fig. 2, element 221 and related discussion).

Per claim 11:

The rejection of claim 10 is incorporated and further, O'Neill discloses:

- wherein said second upgrade agent program is transferred from said first memory and

    stored in said second memory (paragraph [0032] "download agent...download...software

    from distribution... upload agent... uploads software... in the wireless communication

    device...in the non-volatile memory...software update...").

Per claim 12:

The rejection of claim 11 is incorporated and further, O'Neill discloses:

- wherein said second CPU executes said second upgrade agent program after said second

    upgrade agent program is transferred into said second memory from said first memory

    (paragraph [0037] "software updates may be downloaded and easily executed using one

    or more update, download, and upload agents of the primary update environment in

conjunction with one or more software applications, components, and/or firmware

resident in memory of the wireless communication device").

Claims 13-24 are the method claim corresponding to apparatus claims 1-12 respectively,

and rejected under the same rational set forth in connection with the rejection of claims 1-

12 respectively, as noted above.

Conclusion

8.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to **Satish S. Rampuria** whose telephone number is **(571) 272-**

3732. The examiner can normally be reached on **8:30 am to 5:00 pm** Monday to Friday

except every other Friday and federal holidays. Any inquiry of a general nature or relating

to the status of this application should be directed to the **TC 2100 Group receptionist:**

571-272-2100.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, **Wei Y. Zhen** can be reached on **(571) 272-3708**. The fax phone number for the

organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published

applications may be obtained from either Private PAIR or Public PAIR. Status information

for unpublished applications is available through Private PAIR only. For more information

about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on

access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-

217-9197 (toll-free).

Satish S. Rampuria
Patent Examiner/Software Engineer
Art Unit 2191

WEI ZHEN
SUPERVISORY PATENT EXAMINER